IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

Bail Appl..No. 6659 of 2007()

CRIME NO.56/07 OF NEDUPUZHA POLICE STATION

.....

: PETITIONER - 3RD ACCUSED

SEBY JOSE.K., KOYIKKARA HOUSE,
ST.MARY'S STREET, KURIACHIRA,
TRICHUR DIST.

BY ADV. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
KOCHI - 31.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6659 of 2007

Dated this the 6th day of November 2007

O R D E R

Application for anticipatory bail. The petitioner is the third accused in a crime registered for offences punishable inter alia under Sections 420 and 468 I.P.C. The petitioner is a peon of a Service Co-operative Bank. He is arrayed as the third accused. First accused is the Manager and the second accused is the Internal Auditor of the said Service Co-operative Bank. The crux of the allegations against the petitioner is that he, in collusion with the co-accused, had submitted applications purportedly made by various persons but in his own handwriting, signatures wherein were allegedly forged by him. Loans were applied for. Large amounts were siphoned out from the funds of the bank. Investigation is pending. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The alleged incident had taken place as early as in 2001. At this stage of proceedings, it is not necessary to insist on custodial detention and

interrogation of the petitioner. Anticipatory bail may, in these circumstances, be granted to the petitioner, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation reveals the complicity of the petitioner. Some of the applications are made in the handwriting of the petitioner. The persons who are purported to have submitted the applications have denied that they have made the applications. The complicity of the petitioner is thus clearly pointed out from the materials available. There are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This petition may, in these circumstances, be dismissed, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate

having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007